

ORIGINAL

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Attorney for Defendant
RODNEY ASUEGA

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

FEB 16 2007
at 11 o'clock and 45 min. by M
SUE BEITIA, CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODNEY ASUEGA,

Defendant.

No. CR 02-00098 HG

DEFENDANT RODNEY ASUEGA'S
MOTION TO DISMISS;
DECLARATION OF COUNSEL IN
SUPPORT THEREOF; ATTACHED
CERTIFICATE OF DEATH

Defendant Rodney Asuega, by and through counsel, will and hereby does move this Court to dismiss the Indictment, charging him in the above-captioned case, with prejudice.

In support of this motion to dismiss, I, JAMES BUSTAMANTE, declare as follows:

I am an attorney licensed to practice in the State of California and before this Court. I am the attorney of record for defendant Rodney Asuega in this matter.

As the Court is aware this case was continued numerous times due to the fact that Rodney was battling Stage IV colorectal

cancer, as well as other serious medical conditions which he developed as a result of the cancer. Rodney underwent multiple series of radiation and chemotherapy, as well as surgeries. Unfortunately the chemotherapy regiments were non-responsive in shrinking this tumor, and due to a staph infection the oncologists were not able to administer further chemotherapy.

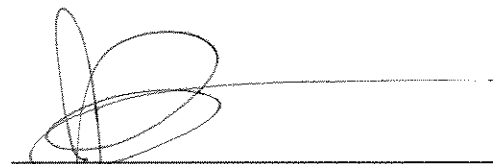
On December 27, 2006, Rodney passed away at the residence he shared with his significant other Faustine in Los Angeles. Attached hereto is a Certificate of Death (Exhibit A).

Assistant United States Attorney Thomas Brady advised that he will ask this Court to dismiss the pending indictment charging Rodney Asuega on the record.

Counsel respectfully asks that he be permitted to appear by telephone at a hearing on this matter.

Based on the foregoing, it is respectfully requested that this Court order this case dismissed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 13, 2007, at San Francisco, California.



JAMES A. BUSTAMANTE
Attorney for Defendant
RODNEY ASUEGA